



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Health- Board of Psychology

- ☒ Preproposal Statement of Inquiry was filed as WSR 98-22-087 ; or
☐ Expedited Rule Making--Proposed notice was filed as WSR ; or
☐ Proposal is exempt under RCW 34.05.310(4).

- ☒ Original Notice
☐ Supplemental Notice to WSR
☐ Continuance of WSR

Title of rule and other identifying information: (Describe Subject)

Creating two new sections in chapter 246-924.WAC. WAC 246-924-445 Parenting evaluation--Standards; and WAC 246-924-467 Limited services related to parenting evaluations

Hearing location(s): Department of Health
310 Israel Rd SE
Point Plaza East Rm 152
Tumwater WA 98501

Date: February 16, 2007

Time: 9:00 AM

Submit written comments to:

Name: Betty Moe
Address: Department of Health
PO Box 47869
Olympia, WA 98504-7869
Website: <http://www3.doh.wa.gov/policyreview/>
fax 360-236-4909 by (date) 02/02/2007

Assistance for persons with disabilities: Contact

Betty Ingram by 02/02/2007

TTY (800) 833-6388 or () 711

Date of intended adoption: 02/16/2007

(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

Establishing these proposed rules will provide clear standards for the psychologists to follow when completing evaluation, assessing their clients and reporting their findings. The proposed rule will help psychologists create/develop/conduct parenting evaluations that are more consistent and reliable, increasing public and court confidence. Psychologists will know what the minimum standard is for conducting these evaluations and clients will be better informed about the evaluation process. These new rules may reduce the number of complaints.

Reasons supporting proposal:

The proposal should help minimize the number of complaints and/or disciplinary actions against the psychologist's license if the guidelines are followed. The proposals will also provide consistent evaluation standards.

Statutory authority for adoption:

RCW 18.83.050

Statute being implemented:

RCW 18.130.050 & RCW 18.130.180

Is rule necessary because of a:

Federal Law?

☐ Yes ☒ No

Federal Court Decision?

☐ Yes ☒ No

State Court Decision?

☐ Yes ☒ No

If yes, CITATION:

DATE

1/02/07

NAME (type or print)

Betty Moe

SIGNATURE

Betty Moe

TITLE

Program Manager

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

JAN 3 2007

TIME

9:06

AM
PM

WSR

07-02-098

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None

Name of proponent: (person or organization) Department of Health-Psychology Board

- ☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Betty Moe	310 Israel Road SE, Tumwater WA 98501	360-236-4912
Implementation.... Betty Moe	310 Israel Road SE, Tumwater WA 98501	360-236-4912
Enforcement..... Betty Moe	310 Israel Road SE, Tumwater WA 98501	360-236-4912

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☒ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name: Betty Moe

Address: Po Box 47869
Olympia WA 98504-7869

phone 360-236-4912

fax 360-236-4909

e-mail Betty.Moe@doh.wa.gov

☐ No. Explain why no statement was prepared.

Is a cost-benefit analysis required under RCW 34.05.328?

☒ Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name: Betty Moe

Address: PO Box 47869
Olympia WA 98504-7869

phone 360-236-4940

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e-mail Betty.Ingram@doh.wa.gov

☐ No: Please explain:

SMALL BUSINESS ECONOMIC IMPACT STATEMENT

PARENTING PLAN EVALUATIONS

**Examining Board of Psychology
Washington State Department of Health**

PROPOSED NEW SECTIONS

WAC 246-924-445 -- Parenting evaluations-Standards

WAC 246-924-467 -- Limited services related to parenting evaluations

1. Briefly describe the propose rule.

Chapter 18.83 RCW regulates the practice of licensed psychologists in the state of Washington. The intentions of this regulation are to protect the public from being misled by incompetent, unethical and/or unauthorized psychologists; to assure the availability of psychology services of high quality to persons in need; and to assure the highest degree of professional conduct and competency in the delivery of these services.

Under RCW 18.83.050, the Examining Board of Psychology is authorized to define and establish qualifications and standards for education, examination, licensure, and practice of psychologists in the state of Washington. Ultimately, the Board establishes rules that it considers are appropriate for the protection of the consumers of psychology services, the people of the state of Washington.

The Board has identified potential risks to families who may be harmed by psychologists using inconsistent and unconventional data collection techniques, evaluation methods and reporting formats when conducting parenting evaluations. These potential risks may result in evaluations that are viewed by the parties as unfair, biased or inaccurate.

By establishing new specific criteria and standards for the parenting plan evaluation process and formalizing them into enforceable rules, the Board anticipates the evaluation process will improve by becoming more consistent, reliable, effective, and fair. And, because these proposed requirements cannot be placed into policy, and since enforcement is required, rule amendment is the only method to incorporate these new requirements. In the end, psychologists, clients and other related parties will be better informed about the evaluation process, potentially reducing the number of

misleading reports filed, and improving the overall effectiveness of utilizing parenting plan evaluations when determining child custody.

The primary objective of these proposed rules is to enhance the quality of care provided by psychologists licensed by the state of Washington. Without these rules there could be licensed psychologists providing potentially inaccurate, biased, or even damaging parenting plan evaluations – which could lead to substandard care of the public and potentially harmful outcomes of child custody disputes. In addition, the department believes that the proposed rules will likely cause a reduction in the number of complaints filed with the Board on this topic.

The Examining Board of Psychology is proposing new rules that will ultimately impose new requirements on parenting plan evaluations. The new rules will:

- Add clarity and consistency to the methodology and practice of parenting plan evaluations.
- Increase awareness of parenting plan evaluations, stressing the importance of consistent, standardized evaluations in determining child custody.
- Reduce potential risks for inaccurate, deleterious and inconsistent parenting plan evaluations.
- Reduce the number of complaints and reports of unprofessional or incompetent practice in the area of parenting plan evaluations.
- Improve the overall effectiveness of using parenting plan evaluations when determining child custody.
- Attempt to ensure that all licensed psychologists are competent and capable of carrying out their professional duties including authoring accurate and standardized parenting plan evaluations.
- Improve the overall quality of services and care provided by psychologists.
- The proposed rules add new requirements for psychologists in performing and documenting parenting plan evaluations.
- The rules require psychologists to properly and completely assess and document all areas of the evaluation process including but not limited to the following:
 - Pre-evaluation agreements and assessments that are consistent.
 - Data collection methods and elements that are legitimate and complete.
 - Complete and thorough assessment involving all parties involved.
 - Complete and thorough written reporting, consistent with chapter 26.09 RCW.
- The rules define and outline in detail terminology, requirements, limits and processes of parenting plan evaluations. The rules affect all psychologists by adding new enforceable requirements to their existing methods and standards of practice.
- The rules reiterate the fact that outcomes of these evaluations should be in the best interest of the children involved.

2. Is a Small Business Economic Impact Statement (SBEIS) required for this rule?

Yes

3. Which industries are affected by this rule?

In preparing this Small Business Economic Impact Statement, the Department of Health used the following SIC codes.

SIC Industry Code and Title	No. Of businesses	No. Of Employees	Average No. Of Employees For Smallest Businesses	Average No. Of Employees for 10% of Largest Businesses
8051 Skilled nursing facilities	281	26,407	15	144
8063 Psychiatric hospitals	6	3,177	0	147
8221 Colleges and universities	124	43,952	7	3454
8322 Individual and family services	1,261	29,061	31	181

4. What are the costs of complying with this rule for small businesses (those with 50 or fewer employees) and for the largest 10% of businesses affected?

The estimated average hourly rate charged by psychologists for parental access/child custody evaluations is \$100.00 per hour. A complete assessment usually costs approximately \$500.00. On the other hand, a psychological parenting evaluation may take 11-12 hours and range in costs from \$850.00 to \$1200.00.

Some psychologist will need to conduct additional data gathering and spend additional time on report writing. Furthermore, since psychologists practice as individuals and are licensed as individuals rather than entities with multiple persons, businesses affected by the proposed rule amendments cannot be adequately compared to determine a disproportionate impact to small business.

5. Does the rule impose a disproportionate impact on small businesses?

Psychology is a service for fee profession, we can assume that costs can eventually be shifted to consumers, and is not a real cost to psychologists. Therefore, this proposal could not impose disproportionate economic impacts on small businesses, since all of the affected businesses are of similar, minimal size. It must also be noted that these costs will only be imposed on those psychologists who are not currently conducting evaluations as addressed in the proposed rule.

6. If the rule imposes a disproportionate impact on small businesses, what efforts were taken to reduce that impact (or why is it not “legal and feasible” to do so)?

Not applicable

7. How are small businesses involved in the development of this rule?

Many social service agencies are small businesses. They have been regularly informed of the rule development and invited to participate in the rule making process through the distribution of Board meeting agendas and minutes. There were also additional rule writing workshops and opportunity for interested parties who attended and the Board to dialogue regarding those pertinent issues identified by the board and jointly developed guiding principles for drafting the proposed rules. .

NEW SECTION

WAC 246-924-445 Parenting evaluations--Standards.

Psychologists may be called upon to evaluate members of a family to assist in determining an appropriate residential arrangement, parental duties, or parental relationship with respect to a minor child. These rules establish minimum standards for conducting parenting evaluations. The psychologist must perform the evaluation focusing on the best interest of the child. In the event that there is more than one child in the family, these rules apply to each child in the family.

(1) The psychologist shall assess relevant ethnic and cultural issues and shall consider the following factors:

(a) The relative strength, nature, and stability of the child's relationship with each parent;

(b) Which parent has taken greater responsibility for performing parenting functions relating to the daily needs of the child;

(c) Each parent's past and potential ability to perform parenting functions; and

(d) The emotional needs and developmental level of the child.

(2) The psychologist may consider the following:

(a) Any voluntary agreements of the parties;

(b) The child's relationship with siblings and with other significant adults, as well as the child's involvement with his or her physical surroundings, school, or other significant activities;

(c) The wishes of the parents and the wishes of a child who is sufficiently mature to express reasoned and independent preferences as to his or her residential schedule; and

(d) Each parent's employment schedule.

(3) In conducting parenting evaluations, the psychologist shall not discriminate based on age, gender, race, ethnicity, national origin, religion, sexual orientation, disability, socioeconomic status, or any basis prohibited by law.

(4) The psychologist may make recommendations regarding the primary residential parent, shared residential time, decision-making authority or other variables involving more than one of the parties. If recommendations are made, the parenting evaluation must include an assessment of each of the relevant parties being considered and their ability to function as a parent.

(5) Recommendations and conclusions, if any, reached in an evaluation must be based on information from more than one source and must be supported by the data collected. Those sources may include:

(a) Face-to-face interviews with the parties;

(b) Collateral contact interviews;

(c) An opportunity for each party to express concerns or

issues in writing;

- (d) A review of pleadings;
- (e) Written input from collateral sources;
- (f) Written documentation from the parties;
- (g) Direct observation of the parties with their children;
- (h) Psychological testing of the parties and/or their children;

(i) A review of relevant records (e.g., school or counseling records, CPS records);

(j) Prior criminal convictions;

(k) Current involvement of law enforcement;

(l) Face-to-face interviews with the children; and

(m) In reaching a conclusion or making a recommendation, the psychologist shall consider the existence of limiting factors as outlined in RCW 26.09.191(6). The psychologist shall be familiar with or obtain consultation regarding the psychological aspects of child abuse, domestic violence, substance abuse, and family conflict.

(6) If the psychologist uses psychological testing as part of the evaluation, the psychologist must interpret the test(s) consistent with current research or standards of practice.

(7) The psychologist shall not have provided therapeutic services to any party involved in the evaluation. Unless there are mitigating circumstances, the psychologist shall decline to perform a parenting evaluation. Providing service in a rural or underserved area with limited professional options is an example of a possible mitigating circumstance.

(8) The psychologist shall avoid multiple relationships when conducting parenting evaluations. If the previous or current relationship is substantially likely to impair objectivity, the psychologist shall decline the appointment or withdraw. The psychologist shall disclose multiple relationships to the parties or their legal representatives and document the disclosure in the client records.

(9) Relevant comments about a person not personally evaluated may be included if the report clearly identifies the source for the comment and states that the person to which the comment relates was not evaluated by the psychologist.

(10) Psychologists shall maintain a written record of the evaluation. At a minimum, the written record shall include the following:

(a) Court order or signed consent from all parties to conduct the evaluation;

(b) Written retainer agreement;

(c) Appropriate court order or signed authorizations for release of information;

(d) Documentation of dates of service, nature of service and fee charged;

(e) A copy of the evaluation report; and

(f) The information and sources used for the evaluation.

(11) The psychologist shall disclose the following specific information to the parties in writing at the outset of the evaluation assignment. All requests for records must be processed

in accordance with chapter 70.02 RCW.

- (a) The entity or individual that has requested the evaluation if it is done at the request of a third party;
- (b) The entity or individual that is responsible for the bill;
- (c) Fee structure;
- (d) The entity, agency or individual that will receive the results or the report;
- (e) Limits on confidentiality; and
- (f) General procedures to be followed.

(12) The psychologist shall make available upon request to the clients or their counsel:

- (a) The documents the psychologist relied upon during the evaluation process;
- (b) The identity of collateral contacts;
- (c) Notes taken during all interviews of the parties or collaterals;
- (d) If, however, the psychologist believes that release of information provided by the child, may be harmful to the child, the psychologist may withhold those notes unless directed to do otherwise by the court. The psychologist shall document the reasons for withholding the information in the file;
- (e) Dates of evaluation procedures and charges;
- (f) All correspondence associated with the case;
- (g) The psychologist shall not provide raw test data including test questions, answer sheets, profile scores, computer generated interpretations, or copyrighted materials to nonpsychologists. The psychologist may provide this information to another psychologist or another individual who is qualified to interpret it, with proper authorization from the client or the client's attorney. Protected test materials and raw data may be provided as directed by the court.

NEW SECTION

WAC 246-924-467 Limited services related to parenting evaluations. (1) A psychologist may perform limited evaluative services related to, but not intended to be, a full parenting evaluation. Examples of these services include:

- (a) Evaluating the parenting ability of a party;
- (b) Evaluating substance abuse status of a party;
- (c) Assessing psychological functioning of a party;
- (d) Performing a sexual deviance evaluation;
- (e) Conducting a domestic violence assessment assessing allegations of sexual or physical abuse of a child; and
- (f) Performing a vocational assessment of a party. The evaluator shall limit conclusions and recommendations to the scope of the requested assessment.

(2) With an appropriate authorization, a psychologist who has

provided therapeutic services may provide information to the court or an evaluator regarding a client. Relevant information may include, but is not limited to:

- (a) Diagnosis, clinical and personality assessment;
- (b) Treatment plan, or prognosis.